

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUSANNA MIRKIN and BORIS MIRKIN,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

XOOM ENERGY, LLC and XOOM ENERGY
NEW YORK, LLC,

Defendants.

No. 18 Civ. 2949 (ARR) (JAM)

DECLARATION OF MICHAEL D. MATTHEWS, JR.
IN SUPPORT OF XOOM'S MOTION
TO EXCLUDE PLAINTIFF'S TIMELY EXPERT DISCLOSURES

Michael D. Matthews, Jr., under penalty of perjury, declares as follows:

I am a partner of the law firm McDowell Hetherington LLP, attorneys for Defendants XOOM Energy, LLC and XOOM Energy New York, LLC. I submit this Reply Declaration in support of XOOM's Motion to Exclude Plaintiff's Timely Expert Disclosures.

1. Annexed hereto as **Exhibit 1** is a true and correct copy of the Expert Report of Derya Eryilmaz and Seabron Adamson (the "CRA Report"), which was served by plaintiff on October 3, 2022.

2. Annexed hereto as **Exhibit 2** is a true and correct copy of an excerpt of Exhibit 4 to the CRA Report, which was served by plaintiff on October 3, 2022.

3. Annexed hereto as **Exhibit 3** is a true and correct copy of Exhibit 5 to the CRA Report, which was served by plaintiff on October 3, 2022.

4. Annexed hereto as **Exhibit 4** are true and correct excerpts of Exhibit 5 to the CRA report that include all the fixed-margin inputs used in CRA's calculations of classwide damages under Model Two.

5. Annexed hereto as **Exhibit 5** is a true and correct copy of the Expert Rebuttal Report of Derya Eryilmaz and Seabron Adamson (the "CRA Rebuttal Report"), which was served by plaintiff on November 4, 2022.

6. Annexed hereto as **Exhibit 6** is a true and correct copy of an excerpt from Exhibit 6 to the CRA Rebuttal Report, which was served by plaintiff on November 4, 2022.

7. Annexed hereto as **Exhibit 7** is a true and correct copy of Exhibit 7 to the CRA Rebuttal Report, which was served by plaintiff on November 4, 2022.

8. Annexed hereto as **Exhibit 8** is a modified version of Exhibit 7 to the CRA report, which replaces the corresponding-fixed-rate margin input with a margin equal to the average of the model's variable-rate margin inputs.

9. Annexed hereto as **Exhibit 9** is a true and correct copy of the Amended Expert Report of Seabron Adamson, which was served by plaintiff at 11:47 p.m. on May 10, 2024.

10. Annexed hereto as **Exhibit 10** is a true and correct copy of relevant excerpts from the Deposition of Seabron Adamson dated November 8, 2022.

11. Annexed hereto as **Exhibit 11** is a true and correct copy of relevant excerpts from the Deposition of Derya Eryilmaz dated November 15, 2022.

12. Annexed hereto as **Exhibit 12** is a true and correct copy of the Expert Report of Frank Felder, Ph.D., which was electronically filed on August 6, 2021 in *Gonzales v. Agway Energy Svcs, LLC*, N.D.N.Y. No. 18-cv-00235.

13. Annexed hereto as **Exhibit 13** is a true and correct copy of the Expert Rebuttal Report of Frank Felder, Ph.D., which was electronically filed on August 6, 2021 in *Gonzales v. Agway Energy Svcs, LLC*, N.D.N.Y. No. 18-cv-00235.

14. Annexed hereto as **Exhibit 14** is a true and correct copy of relevant excerpts from the Deposition of Frank Felder, Ph.D., which was electronically filed on August 6, 2021 in *Gonzales v. Agway Energy Svcs, LLC*, N.D.N.Y. No. 18-cv-00235.

15. Annexed hereto as **Exhibit 15** is a true and correct copy of the Expert Report of Dr. Debra J. Aron, which was electronically filed on August 6, 2021 in *Gonzales v. Agway Energy Svcs, LLC*, N.D.N.Y. No. 18-cv-00235.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 20, 2024.

A handwritten signature in black ink, appearing to read "Michael D. Matthews, Jr.", written over a horizontal line.

Michael D. Matthews, Jr., Esq.